

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Bridon <i>et al.</i>	Confirmation No.:	7359
Application No.:	10/722,733	Art Unit:	1648
Filed:	November 25, 2003	Examiner:	Zachariah Lucas
For:	LONG LASTING SYNTHETIC GLUCAGON LIKE PEPTIDE (GLP-1)	Attorney Docket No.:	11767-055-999 (CAM: 515319-999055)

RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.78(a)(3)

Mail Stop Petition

Attention: Paul Shanoski, Senior Attorney
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants received from the United States Patent and Trademark Office (“USPTO”) a Decision on Petition Under 37 C.F.R. § 1.78(a)(3) dated June 10, 2010 (“Decision”), dismissing Applicants’ Petition Under 37 C.F.R. § 1.78(a)(3) filed on May 13, 2010 (“the May 13, 2010 Petition”), which requested the acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed non-provisional application, in connection with the above-identified abandoned application (hereinafter “the ’733 application”). Applicants hereby renew their Petition Under 37 C.F.R. § 1.78(a)(3), and request that the above-identified abandoned application (hereinafter “the ’733 application”) be amended to recite that the ’733 application is a continuation-in-part of the prior filed, then co-pending, non-provisional application, U.S. Patent Application no. 09/623,548 (hereinafter “the ’548 application”).

In the Decision, the USPTO states that an original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on June 30, 2008, and that renewed petitions pursuant to 37 C.F.R. § 1.78(a)(3) were filed on October 31, 2008, February 5, 2009, and July 16, 2009, respectively (Decision at pages 1-2). Applicants respectfully point out that the June 30, 2008 petition was filed pursuant to 37 C.F.R. § 1.182, and that the papers filed on October 31,

2008, February 5, 2009, and July 16, 2009, respectively, were each a Request for Reconsideration of Decision on Petition Under 37 C.F.R. § 1.182.

As discussed in the May 13, 2010 Petition, Applicants previously attempted to amend the '733 application, to reflect that the '733 application is a continuation-in-part of the '548 application, by way of the Petition Under 37 C.F.R. § 1.182, filed on June 30, 2008 ("the June 30, 2008 Petition"), in the good faith belief that the June 30, 2008 Petition provided a reasonable basis for granting their request to thus amend the '733 application. After Applicants' Third Request for Reconsideration of Decision on Petition Under 37 C.F.R. § 1.182 (filed on July 16, 2009) was dismissed by the USPTO on March 15, 2010, Applicants filed the May 13, 2010 Petition.

With regard to the May 13, 2010 Petition, the USPTO states that while requirements (ii) and (iii) under 37 C.F.R. § 1.78(a)(3) have been met¹, the May 13, 2010 Petition fails to sufficiently provide the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed application, as required under 37 C.F.R. § 1.78(a)(3)(i) (Decision at page 2). In particular, the USPTO states that the supplemental Application Data Sheet (ADS) submitted with the May 13, 2010 Petition cannot be entered because the ADS has not been executed, and is thus not in accordance with 37 C.F.R. § 1.33(b) (Decision at pages 2-3).

Applicants hereby renew their petition under 37 C.F.R. § 1.78(a)(3), and respectfully request acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior filed '548 application. In particular, Applicants request that the '733 application be amended to reflect that the '733 application is a continuation-in-part of the '548 application. An *executed* Supplemental Application Data Sheet for the '733 application, showing the correct relationship of the '733 application to the '548 application, as well as updated attorney information and docket number, is submitted herewith. Pursuant to 37 C.F.R. § 1.76 (d)(1), the updated information in this Supplemental Application Data Sheet will govern, notwithstanding any inconsistent information in the prior filed amendment to the

¹ Pursuant to C.F.R. § 1.78(a)(3), a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.


specification. Applicants respectfully request entry of the executed Supplemental Application Data Sheet into the file history of the '733 application.

Applicants hereby state that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Entry and grant of this Petition are respectfully requested.

A fee of \$1,410.00 is believed due under 37 C.F.R. § 1.17(t) for submission of this Petition. Please charge the required fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,

Date: August 3, 2010


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